

Public Service Commission Of West Virginia

201 Brooks Street, P. O. Box 812
Charleston, West Virginia 25323

Charlotte R. Lane
Chairman



October 23, 2000

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Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
Office of the Secretary
445-12th Street, SW, Room TW-204B
Washington, DC 20554

Re: CC Docket No. 96-45: Certification Under 47 U.S.C. § 254(e).

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED
& TELEFACSIMILE

Dear Secretary Salas:

The Public Service Commission of West Virginia (WVPSC) hereby submits its certification in accordance with 47 C.F.R. § 54.313. This section of the Commission's rules requires state certification in order to allow non-rural incumbent local exchange carriers, or eligible telecommunications carriers in non-rural service areas, to receive federal universal service support pursuant to 47 C.F.R. §§ 54.309 or .311.

As required by 47 C.F.R. § 54.313(b), the WVPSC certifies that the following carriers in West Virginia are eligible to receive federal support during January 1, 2001 to December 31, 2001: Verizon West Virginia, Inc. (Verizon-WV). Verizon-WV is the only non-rural carrier in West Virginia and no carriers have been designated by the WVPSC as eligible telecommunications carriers in any area served by Verizon-WV. The WVPSC further certifies that Verizon-WV will only use federal support for the provision, maintenance and upgrading of facilities and services for which the support is intended. This certification is the product of formal proceedings before the WVPSC. See "Commission

Ms. Magalie Roman Salas, Secretary

October 23, 2000

Page 2

Order," General Investigation Re: Disposition of Federal Universal Support to BA-WV, Case No. 00-1579-T-PC (Oct. 23, 2000) (copy attached). Pursuant to a settlement entered into by Verizon-WV, Staff of the WVPSC and the Consumer Advocate Division of the WVPSC, and approved by the WVPSC, all federal universal service support received by Verizon-WV will be used to reduce monthly rates for single-line business and residential customers in West Virginia, effective January 1, 2001.

The WVPSC respectfully requests that the FCC consider its certification for funding, beginning with the 1st Quarter of 2001, out-of-time. In order for funding to be received for this time period, certification was to have been made by October 1, 2000. The WVPSC's failure to meet this deadline was inadvertent and stemmed, in part, from the fact that universal service funding for West Virginia during the Second Program Year has not yet been calculated.

On behalf of the people of West Virginia, the WVPSC expresses its appreciation for the Commission's efforts in arriving at a mechanism to provide support that will reduce monthly rates for the bulk of consumers and make those rates more comparable to rates paid by consumers in other parts of the Nation.

Very truly yours,

A handwritten signature in black ink, appearing to read "Charlotte R. Lane".

CHARLOTTE R. LANE, Chairman

Encl.

cc: Administrator, Universal Service Administrative Company
80 South Jefferson Road
Whippany, NJ 07981

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

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At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 23rd day of October, 2000.

CASE NO. 00-1579-T-PC

GENERAL INVESTIGATION regarding the appropriate disposition of additional Federal universal service support funds allocable to Verizon West Virginia Inc.

COMMISSION ORDER

On October 21, 1999, the Federal Communications Commission (FCC) issued two orders: the first order adopted inputs to be used in estimating forward-looking costs to provide basic universal service; the second order calculated non-rural telecommunications carriers' costs to provide basic universal service, on a state-by-state basis, and adopted rules governing how federal universal service support would be allocated to such carriers. See "Tenth Report and Order," In the matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, FCC 99-305 (Rel. Nov. 2, 1999) (USF Inputs Order); and "Ninth Report and Order and Eighteenth Order on Reconsideration," In the matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, FCC 99-304 (Rel. Nov. 2, 1999) (USF High-Cost Support Order). Universal service funds are intended to ensure that rates across the nation, particularly in rural and high-cost areas, are "affordable and reasonably comparable" to rates in low-cost and urban areas. Moreover, § 254(e) of the Telecommunications Act of 1996 (TA96) provides that carriers must use universal service support "[O]nly for the provision, maintenance and upgrading of facilities and services for which the support is intended." 47 U.S.C. § 254(e).

Applying Section 254(e)'s dictates, the FCC required "[S]tates that wish to receive federal universal service high-cost support for non-rural carriers within their territory to file a certificate with the [FCC] stating that federal high-cost funds flowing to non-rural carriers in that state will be used in a manner consistent with [47 U.S.C. § 254(e)]." Id. ¶ 97. Non-rural carriers will not receive support until the state files an appropriate certification with the FCC. Id. ¶ 98. Thus, it is incumbent upon the Commission to certify that BA-WV's proposed use of increased federal universal support is consistent with TA96's purposes if BA-WV is to receive such support.

By order entered February 8, 2000, the Commission approved an amended stipulation of settlement filed by Commission Staff (Staff), the Consumer Advocate Division of the Commission (CAD), and Verizon West Virginia Inc.'s (Verizon-WV) predecessor, Bell Atlantic - West Virginia,

Inc. See "Commission Order," GI Re: Disposition of Additional Federal Funds, Case No. 99-1620-T-GI (Feb. 8, 2000). The amended settlement provided that all additional support received by Verizon-WV's predecessor would be allocated to a series of reductions in its local dial tone line rates for both business and residential customers, applicable to basic monthly rates only and not to usage-based rates. These reductions would be implemented through a "Federal Universal Service Credit" to be applied against otherwise applicable tariffed rates. In subsequent program years, the amount of the Federal Universal Service Credit would be automatically increased or decreased in proportion to the increase or decrease in the amount of funding available to Verizon-WV during that program year. *Id.* at 4-5.

Under the FCC's rules, in order for non-rural carriers to receive federal universal service high-cost support for the program year beginning January 1, 2001, the Commission must file a certification prior to by October 1, 2000, in order for funds for all four quarters of 2001 to be received. See 47 C.F.R. § 54.313.

On October 20, 2000, a joint petition for the approval of a stipulated settlement was filed with the Commission by Staff, CAD and Verizon-WV. The stipulated settlement provided that all federal universal service support received by Verizon-WV during the program year beginning January 1, 2000, (Second Program Year) will be used to reduce rates for local residential and business customers in proportion to the increase in the amount of support available to Verizon-WV for the Second Program Year. The parties noted that the amount of funding that Verizon-WV will receive in the Second Program Year has not yet been calculated. *Stipulated Settlement*, at 2-3. In their petition, the parties requested that the Commission approve the settlement, file the necessary certification and request consideration of the certification, out-of-time, for funding for the 1st Quarter of 2001.

DISCUSSION

The Commission concludes that the parties' joint petition should be granted, and the Stipulated Settlement, executed October 20, 2000, approved as filed. The Stipulated Settlement simply continues the program of using all federal universal service support to reduce basic monthly local residential and business rates previously approved by the Commission in Case No. 99-1620-T-GI, and allows for additional increases or decrease in the applicable Federal Universal Service Credit in proportion to any increase or decrease in funding calculated for the Second Program Year. The Commission further concludes that it is appropriate to direct the parties to file future petitions for approval of the disposition of federal universal service support at least 30 days prior to the October 1 deadline in any given program year. Finally, the Commission concludes that it is appropriate to include a request that its certification be considered, out-of-time, for funding for the 1st Quarter of 2001.

FINDINGS OF FACT

1. On October 20, 2000, a joint petition for the approval of a stipulated settlement was

filed with the Commission by Staff, CAD and Verizon-WV. The stipulated settlement provided that all federal universal service support received by Verizon-WV during the program year beginning January 1, 2000, (Second Program Year) will be used to reduce rates for local residential and business customers in proportion to the increase in the amount of support available to Verizon-WV for the Second Program Year. The parties noted that the amount of funding that Verizon-WV will receive in the Second Program Year has not yet been calculated. Stipulated Settlement, at 2-3. In their petition, the parties requested that the Commission approve the settlement, file the necessary certification and request consideration of the certification, out-of-time, for funding for the 1st Quarter of 2001.

2. Under the FCC's rules, in order for non-rural carriers to receive federal universal service high-cost support for the program year beginning January 1, 2001, the Commission must file a certification prior to by October 1, 2000, in order for funds for all four quarters of 2001 to be received. See 47 C.F.R. § 54.313.

3. By order entered February 8, 2000, the Commission approved an amended stipulation of settlement filed by Staff, CAD and Verizon-WV's predecessor. See "Commission Order," GI Re: Disposition of Additional Federal Funds, Case No. 99-1620-T-GI (Feb. 8, 2000).

4. The Commission adopts, as if fully restated, all recitals of fact set forth herein.

CONCLUSIONS OF LAW

1. The parties' joint petition is granted, and the Stipulated Settlement, executed October 20, 2000, approved as filed.

2. The Stipulated Settlement simply continues the program of using all federal universal service support to reduce basic monthly local residential and business rates previously approved by the Commission in Case No. 99-1620-T-GI, and allows for additional increases or decrease in the applicable Federal Universal Service Credit in proportion to any increase or decrease in funding calculated for the Second Program Year.

3. The parties shall file future petitions for approval of the disposition of federal universal service support at least 30 days prior to the October 1 deadline in any given program year.

4. It is appropriate to include a request that the Commission's certification be considered, out-of-time, for funding for the 1st Quarter of 2001.

5. The Commission adopts, as if fully restated, all legal conclusions set forth herein.

ORDER

IT IS, THEREFORE, ORDERED that the Stipulated Settlement, filed with the Commission on October 20, 2000, by Commission Staff, the Consumer Advocate Division of the Commission, and Verizon West Virginia Inc., is approved. The Stipulated Settlement is attached as Appendix A and is incorporate as if fully restated herein.

IT IS FURTHER ORDERED that, upon entry hereof, this proceeding shall be removed from the Commission's active docket of cases.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this order upon all parties of record by United States First Class Mail and upon Commission Staff by hand delivery.

ARC
PWP/pwp
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PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

APPENDIX A

CASE NO. 00-1579-T-PC

GENERAL INVESTIGATION regarding
the appropriate disposition of additional
Federal Universal Service Support Funds
allocable to Verizon-West Virginia, Inc.

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STIPULATED SETTLEMENT

This Stipulated Settlement is entered into this 20th day of October, 2000, by and among Verizon West Virginia Inc. (Verizon-WV), the Staff of the Public Service Commission (Staff), and the Consumer Advocate Division of the Commission (CAD).

WHEREAS, on October 21, 1999, the Federal Communications Commission (FCC) issued two companion orders in its ongoing universal service proceeding: the USF High-Cost Support Order¹ and the USF Inputs Order², and

WHEREAS, Verizon-WV will be eligible as a result of those two orders to receive high-cost support from the federal universal service fund during calendar year 2001 (Second Program Year); and

WHEREAS, the Commission approved, by order entered February 8, 2000, in Case No. 99-

¹"Ninth Report and Order and Eighteenth Order on Reconsideration," In the Matter of Federal-State Joint Board Universal Service, CC Docket No. 96-45, FCC 99-304 (Rel. Nov. 2, 1999).

²"Tenth Report and Order " In the Matter of Federal-State Joint Board Universal Service, CC Docket No. 96-45, FCC 99-305 (Rel. Nov. 2, 1999).

1620-T-GI, the undersigned parties' amended stipulation of settlement allocating all additional universal service support received by Verizon-WV to a series of reductions in Verizon-WV's basic monthly local dial tone line rates for both business and residential customers, implemented by means of a "Federal Universal Service Credit" applied against the otherwise tariffed rate; and

WHEREAS, paragraph four of the settlement approved by the Commission in Case No. 99-1620-T-GI provided, in part, that the Federal Universal Service Credit would be automatically increased or decreased, as the case may be, in proportion to the increase or decrease in the amount of universal service funding available to Verizon-WV during the second or any subsequent program year; and

WHEREAS, the amount of universal service funding that Verizon-WV will receive in the Second Program Year has not yet been calculated; and

WHEREAS, state commission certification that federal-high cost funds for non-rural carriers are being used in a manner consistent with 47 U.S.C. § 254(e) must be filed with the FCC by October 1, 2000, in order for such support to be available for all four quarters of 2001;

WHEREAS, the parties are in agreement concerning how any federal high-cost universal service support funds should be used;

NOW, THEREFORE, the parties hereby agree and stipulate as follows:

1. The reductions in Verizon-WV's basic monthly local dial tone line rates shall continue to be applied during the Second Program Year.
2. As provided in the settlement approved by the Commission on February 8, 2000, in Case No. 99-1620-T-GI, the Federal Universal Service Credit will be increased or decreased, as the case may be, in proportion to the increase or decrease in the amount of universal service funding available to Verizon-WV during the Second Program Year, as ultimately calculated by the FCC.
3. Verizon-WV shall file for Commission approval, a tariff section providing for the Federal Universal Service Credit, together with such implementing regulations as may be reasonably necessary, in order to implement rate adjustments for the Second Program Year, as soon practicable following calculation of available federal universal service funding.
4. Verizon-WV shall cause a sheet summarizing applicable Federal Universal Service Credits, in a format identical to that summary attached to the settlement approved by the Commission on February 8, 2000, in Case No. 99-1620-T-GI.

Dated: October 20th, 2000.

VERIZON WEST VIRGINIA INC.

COMMISSION STAFF

By: /s/ David B. Frost

By: /s/ Patrick W. Pearlman

CONSUMER ADVOCATE DIVISION

By: /s/ Billy Jack Gregg (per telephone 10/19/00)

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